

HOUSE BILL 4015 COMMENTS

March 17, 2010

- John Mills
 - Former Chair of the Family Law Section of the SBM. Section membership numbers approximately 2800 attorneys throughout the state
 - Former Chair of the FLS's Adoption Law Committee from 1995 through 2004. Committee made up of approximately 10 adoption attorneys across the state who regularly work in the area of adoption law.

- I've worked in adoption law since the code was amended in 1994 and have done literally hundreds of direct placement adoption cases. These cases typically start with everyone on edge and wondering what the other side is up to. Over time, and with a lot of work and a certain amount of luck, a level of trust is achieved between birthparent and adoptive parent. More to the point, a level of trust is achieved between birthparent and the adoption facilitator.

- The adoption facilitator is the agency or person who "runs" the adoption and makes sure that the child is properly free to be adopted and that the adoption is performed correctly and completely. In building that level of trust, the adoption facilitator, and the court, must explain the process to the birthmother by which the child can have

contact with his/her birthparents later in life. That is the process presently set forth in Section 68 of the Adoption Code (MCL 710.68).

- Under that procedure, identifying information will be released to an adult adoptee unless a birthparent files a statement denying consent to release the information. That has been the procedure in Michigan since 1980.
- The former procedure in effect from 1945 through 1980 was just the opposite. The birthparent had to file a statement of consent to permit the release of identifying information.
- HB4015 would amend Section 68 so as to retroactively change the procedure for the group of birthparents who participated in an adoption plan from 1945 through 1980 to the present procedure. Both the Adoption Committee and the Family Law Section oppose the change as set forth in the bill.
- The present bill calls into question whether a birthparent can rely on representations made by an adoption facilitator, the court or the legislature in making the decision to enter into an adoption plan or not to enter into such a plan.
- If a birthparent relies on the law as it exists at the time the decision is made to place her child with people she doesn't know on faith alone,

and that is a material consideration in whether or not to enter into an adoption plan, the legislature should honor that procedure rather than change that law *ex post facto* to the detriment of that birthparent some 30 years later.

- In the late 90s, I received a call from a woman whom I'll refer to as Ann. Ann had enlisted in the Navy in the mid-60s and was stationed in Great Lakes, IL when she became pregnant. She entered into an adoption plan with a Milwaukee agency and the agency placed her child in a good home. Ann returned to Detroit, married and raised a family. I knew one of her sons through Boy Scouts. Some 30 years after placement, her parents were contacted by the agency indicating the child she had in the 60s wanted contact with her. She was traumatized and retained me to contact the agency with instructions to close her file permanently, not share any identifying information with the child...now an adult...and essentially leave her alone.
- In my experience, birthparents, particularly birthmothers like Ann, agonize over whether to participate in an adoption plan. These are unselfish, life-changing decisions based on all of the information available to assure her that her child will have a better life in an adoptive home than she could provide. Often times, that chapter of a

birthmother's life ends and, as in the case of Ann, an entirely new chapter begins. If only one birthmother is negatively affected by a change in the law regarding contact, that's one too many. As for adoptees, had birthmothers an inkling that the law regarding contact might be changed 30 years after the fact, the adoptees might not even be here to complain about it.

- We're at a time in the history of our state and nation where faith and trust in government and governing bodies is perhaps at an all time low. If a legislature can change the law *ex post facto* to the detriment of a group of birthparents who made perhaps the most difficult decision of their lives some 30 to 65 years ago, that decision won't do a lot toward rebuilding a level of trust in government. A favorable decision on this bill could have a chilling affect on adoptions for years to come.
- The Family Law Section has no objection to the other changes HB4015 would make to the disclosure law going forward but urges this body not to forward the bill with the present language which would negatively affect the rights of the 1945 to 1980 birthparents.
- **Thank you for your time and attention.**